Court No. – 1

Writ Petition No. 511 (m/s) of 2001

U.P. Jal Nigam …… Petitioner

Versus

Sita Ram and others. ….. Respondents.

Hon. P.C. Verma, J.

This writ petition has been filed by the petitioner challenging the order dated 21.12.2000 passed by the Labour Court, Dehradun under section 33 (c)(2) of the Industrial Disputed Act, 1947 in labour case No. 1 of Industrial Disputes Act, 1947 in labour case No. 1 of 2000.

Heard learned counsel for the petitioner and Sri Paresh Tripathi for opposite parties No. 1 to 6.

The respondent moved an application under section 33 (c) (2) before the Labour Court for the payment of their wages as they had worked as labourers under the Ataal Payjal Scheme from Ist January, 1998 to 4.6.1998. The application was moved by 15 workmen. From the perusal of the impugned judgment it reveals that out of 15 applicants, 7 applicants surrendered their right by filing affidavit that they did not work but six applicants continued to pursue their case and the claim was contested by filing their objections.

In support of their claim, the respondents filed attendance register, certificate issued by Block Pramukh and Senior Up Blok Pramukh certifying that the respondents had worked. Certificate issued by Up Pradhan of village Sainz Ataal and some affidavits of the village Sainz Ataal and some affidavits of the villagers of the village Ataal. Besides the aforesaid documents, letters dated 7.5.1998 and 17.9.1997. The petitioner employer denied the genuineness of the attendance register and submitted that the attendance register was forged one. The Labour Court rejected the contention of the petitioner for the reason that the petition did not file any other attendance register or any muster roll to show that who had worked and to prove that the attendance register filed by the respondents is a forged one. No objection was put forward regarding rest of the documents mentioned above. Therefore, relying on the rest of the documents and affidavits, the Labour Court came to the conclusion that the respondents had worked. Thus the labour Court allowed the application and directed the

petitioner to pay the amount claimed i.e. Rs. 60,000 and in case of default in payment, an interest of 12% has alwo been awarded.

The learned counsel for the petitioner submits that in the application of 15 applicants claiming payment of Rs. 60,000 but after the surrender of seven applicants only six applicants were entitled for payment in view of the findings recorded by the Labour Court. It was further submitted by the learned counsel for the petitioner that the applications could not have been allowed as it involves the determination of right under section 33 (c) (2) and no right can be determined only order can be made on the basis of principle of existing right In support of his contention, he cited the judgment of Apex Court reported in 2001 Supreme Court Cases, State Bank of India Vs. Ram Chandra Dubey and others page 73. There is no dispute in this settled position of law but from the perusal of the application and award it is clear that the Labour Court has not determined any right but has ordered for the payment of wages to be paid to the workmen as they ha worked. The Labour Court fell into an error by not reducing the amount of compensation which was liable to be paid to six applicants alone. This is apparent error on the face of the record/ for which applicants can move an application for correction of the order before the Labour Court and if such application is moved before the Labour Court the same shall be decided within 15 days from the date of its filing.

With the above observation, the writ petition is finally disposed of.

R.P. Singh
21-3-2001

(P.C. Verma, J.)